

## **REMARKS**

The Office action mailed December 19, 2005 has been received and reviewed. Claims 1 through 20 stand rejected. The application is to be amended as previously set forth. All amendments are made without prejudice or disclaimer. No new matter has been added. Reconsideration is respectfully requested.

### **A. Interview:**

Applicants would like to thank the Examiner for the courtesy extended in granting a personal interview. As described by the Examiner in the Interview Summary,

“Discussed amendments to the claims to overcome the rejections under 101 and 112. The examiner agreed that the changes would overcome these rejections. In addition the examiner indicated that the changes appeared to distinguish over the Covert reference. However an updated search of the prior art will need to be conducted.”

Applicants believe the Examiner’s statement, together with this response, adequately describes the contents of the interview. M.P.E.P. § 713.04. If, however, the Office would like further details, the Examiner is kindly requested to contact applicants at the phone number given herein, and more detail will promptly be provided.

### **B. 35 U.S.C. 101:**

Claims 1 through 11 were rejected as being directed to non-statutory subject matter. As agreed at the interview, applicants have amended claims 1 through 8 and 10 and 11 to depend (directly or indirectly) from non-rejected claim 12. Terminology in the claims has also been amended for clarity and to be more uniform than the previous two claim different claim sets. Claim 9 has been similarly amended, but has also specifically been amended to be independent and to clarify its terms. In view of the amendments, applicants request that the rejection be withdrawn.

C. 35 U.S.C. 112:

Claims 4 and 5 were rejected under 35 U.S.C. 112, second paragraph, for use of the terminology “such as”. As agreed at the interview, applicants have amended the claims to remove the rejected terminology, and in view of the amendments respectfully request that the rejection be withdrawn.

D. 35 U.S.C. 102:

Claims 1-5, 8-12, 14-18, and 20 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Covert, U.S. Patent Application Publication No. 2005/038681 to Covert. Applicants traverse the rejection.

As discussed at the interview, Covert is directed to “Family Protector Insurance”, which insures the payor spouse’s obligations (*e.g.*, by insuring the payor spouse’s health or life against disability and death, respectively) after a decision to divorce has already been made. (*See, e.g.*, paragraphs [0033], [0034], [0036], [0061], [0062], [0064], [0066], [0068], and [0071] and claims 3-5 of Covert). As stated in paragraph [0033] of Covert, the problem Covert seeks to solve is that “there are no insurance products currently offered that in any way protect the payee spouse in the event that the alimony paying spouse is disabled and unable to work, in the event the payor spouse dies, or in the event the payor spouse ceases making payments or makes reduced payments.” Covert goes so far in some cases as to even presume a court order requiring Family Protector Insurance has already been issued. (*See, e.g.*, paragraphs [0036], [0061], [0062], [0064], [0066], [0068], and [0071] and claims 3-5 of Covert).

While being potentially useful to the payee spouse, Covert’s Family Protector Insurance is different than applicants’ invention, which can be beneficial to everyone involved. Specifically, applicants’ claims are directed to a method much more akin to long term health or life insurance wherein payments are made, but no desire is harbored by the participants to ever have the insured event actually occur (*e.g.*, divorce in the case of a married couple is much like sickness or death, respectively, in the cases of health and life insurance; they are insured against, but no one wants them to occur). (*See, e.g.*, paragraph [0008] of applicants’ published application). Unlike Covert, under applicants’ claim 12, the policy is contracted and entered into (and premiums have been paid) long before an end (*e.g.*, a divorce) is even contemplated by the

contracting persons (*e.g.*, as was claimed in claim 1, applicants' insurance policy insured against the untimely end of a contractual relationship, it was not intended to solely protect one party's interests as the results of an already made decision to end the contractual relationship).

For example, as described in paragraph [0014] of applicants' published application, installments for applicants' invention "can start at the day of marriage or before or during a marriage (or another such contract)."

Applicants' claim 12 is in stark contrast to Covert, where, in paragraph [0061], Covert states "Moreover, it should also be apparent that this transaction could be initiated at the time the divorce is finalized, at the time any child support payments are ordered, or at any time subsequent."

As further described in paragraph [0024] of applicants' published application,

"The policy could be sold to prospective participants in the usual ways for selling life insurance. For example, insurance salesmen could offer it to new couples."

Selling an insurance policy for the untimely ending of a relationship to newlyweds or their parents, guardians or via their employers is not the same as selling Covert's Family Protector Insurance to a divorcing couple, where the damage has already been done.

This fundamental difference between applicants' invention and Covert explains why the elements of claims 6 (refunding premiums if the contractual relationship does not occur), 7 (determining the amount of coverage dependent on investment return of the premium amounts), 13 (basing the premiums on the basis of the participants' ages), and 19 (investing the premiums paid) could not be found by the Office in Covert. Such elements are irrelevant to Covert's Family Protector Insurance, where there is a short investment time frame and the time value of money cannot be as readily utilized.

Be that as it may, as agreed at the interview, however, applicants are also amending the other claims to more clearly distinguish Covert.

Specifically, independent claim 12 (from which all claims except amended claim 9 now depend) has been amended to clarify that in that embodiment, "the charges for the periodic payment start either at or before the beginning of the contractual relationship between the two or more natural persons." Basis for the amendments to claim 12 is found throughout the

application, but specific basis can be found in paragraph [0014]. Such an element should more clearly distinguish Covert.

With respect to various dependent claims which have been rejected over Covert, applicants also further traverse the rejection.

With respect to claim 5, applicants do not believe that the court order of Covert's paragraph [0061] is "another contract" of applicants' claim 5. A contract is completely legally different than a court order.

With respect to claim 9, in paragraph [0030] of applicants' published application, a three to five year waiting period after a marriage occurs before the policy becomes effective is identified. Similarly, claim 9 of applicants' as-filed application included a minimum duration of the contractual relationship before coverage was obtained. In contrast, the insurance company's payment obligation under Covert's Family Protector Insurance would theoretically start immediately. In view of this significant difference, applicants have amended claim 9 to further clarify it and to make it into an independent claim. Claim 9 should clearly distinguish Covert.

With respect to claim 11, applicants reviewed paragraph [0036] of Covert, and were unable to find a third party (not the payor or payee spouse) taking out the insurance policy, such as in laws or an employer, which is an element of the claim. Clarification is kindly requested.

With respect to claim 14, applicants reviewed paragraph [0036] of Covert, and were unable to find basing the periodic amount to be charged, in part, on the prospective participant's projected earnings, which is an element of the claim. Clarification is kindly requested.

With respect to claim 15, applicants reviewed paragraph [0036] of Covert, and were unable to find basing the periodic amount to be charged, in part, on the prospective participant's partner's projected earnings, which is an element of the claim. Clarification is kindly requested.

With respect to claim 20, applicants reviewed paragraph [0047] of Covert, and were unable to find "means to prevent fraud" (*see, e.g.*, paragraph [0030] of the applicants' published application), which is an element of the claim. 35 U.S.C. 112, paragraph 6. Clarification is thus kindly requested.

In view of the foregoing, applicants request that the rejection be withdrawn.

E. 35 U.S.C. 103

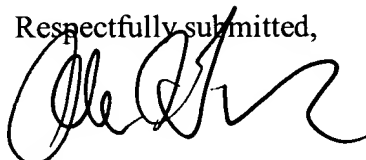
Claims 6-7, 13, and 19 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Covert in view of Flagg, U.S. Patent 6,456,979. Applicants respectfully traverse the rejection.

As discussed at the interview, Flagg does not overcome the deficiencies of Covert. Flagg does not, alone or in combination, teach or suggest the method of independent claim 12 or 9.

Furthermore, absent hindsight and only after being appraised of applicants' disclosure, would one of ordinary skill in the art even consider combining Covert and Flagg in the manner set forth in the Office action. There is just no motivation to combine the references as suggested.

The application should be in condition for allowance. If, however, questions remain after consideration of the foregoing, the Office is kindly requested to contact applicants' attorney at the address or telephone number given herein.

Respectfully submitted,



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